

BY SENATOR HAINKEL

1 removal of any state or local public official or employee, whether
2 classified or unclassified, from his position of employment, upon
3 conviction, during his employment, of a felony as defined by law.

4 Section 2. Be it further resolved that this proposed amendment shall be
5 submitted to the electors of the state at the statewide election to be held on
6 November 5, 2002.

7 Section 3. Be it further resolved that on the official ballot to be used
8 at the election there shall be printed a proposition, upon which the electors of
9 the state shall be permitted to vote FOR or AGAINST, to amend the
10 Constitution of Louisiana, which proposition shall read as follows:

11 To require that the legislature provide by general law for the
12 removal of any state or local public official or employee,
13 whether classified or unclassified, from his position of
14 employment or office, upon conviction, during his employment
15 or office, of a felony as defined by law. (Adds Article X,
16 Section 25.1)

The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by H. David Smith.

Hainkel (SB 27)

DIGEST

Present constitution provides that a classified state employee subjected to discipline has a right of appeal to the State Civil Service Commission. (Const. Art. X, Sec. 8(A) and 12(A))

Present law provides for termination of state employees both classified or unclassified and removal of such employee from his position of employment with the state upon conviction, during his employment, of a felony as defined by state or federal law. (R.S. 42:1414)

The La. Supreme Court in *AFSCME, Council # 17 v. State ex rel. Dept. of Health and Hospitals*, 789 So. 2d 1263(La. 2001), held that present law (R.S. 42:1414) violated the separation of powers principle as applied to classified state employees.

Proposed constitutional amendment requires that the legislature provide by general law for the removal of any state or local public official or employee, whether classified or unclassified, from his position of employment or office, upon conviction, during his employment or office, of a felony as defined by law.

Specifies submission of the amendment to the voters at the statewide election to be held on 11/5/02.

(Adds Const. Art. X, Sec. 25.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill.

1. Authorizes removal of a local public official and local employee upon conviction of a felony during his term of office or employment.